

CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Approve Contract Services for Building Plan Check and Inspections to BJY, Inc.

MEETING DATE: July 21, 1999

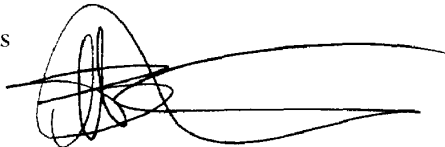
PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council approve a professional services agreement for building plan check and inspection services with BJY, Inc.

BACKGROUND INFORMATION: Due to the present and projected workload in the Building Division, staff has sought additional consulting plan check firms to supplement the work currently done by another firm. This consultant would provide identical services with the same compensation schedule. The benefits to the City will enable us to even out the amount of work going to a single source, thus keeping the turn around time to a minimum.

The building function has used outside plan check services for many years. This service not only supplements staff's workload, but importantly provides expertise not available with in-house resources. We have worked with personnel from this firm in the past and are confident they can provide the quality of service we demand.

FUNDING: Covered by Plan Check Revenues



Konradt Bartlam
Community Development Director

Cc: Chief Building Inspector
BJY, Inc.

Attachment

APPROVED: _____

H. Dixon Flynn -- City Manager

THE CITY OF LODI

AGREEMENT FOR BUILDING SAFETY SERVICES

THIS AGREEMENT is made this _____ day of _____, 1999, by and between The City of Lodi, California, hereinafter referred to as The City of Lodi, and BJY Inc., a Texas corporation with principal offices at 100 Congress Avenue, 18th Floor, Austin, Texas 78701 and Pleasanton Regional Office located at 5820 Stoneridge Mall Road, Suite 100, Pleasanton, California 94588, hereinafter referred to as Engineer who agree as follows:

1. **Description of Work.** When and as requested by The City of Lodi, Engineer shall perform services in accordance with the terms and conditions of this Agreement, hereinafter referred to as the "Work".
 - 1.1. Full Plan Review Services. Upon request by The City of Lodi, Engineer shall review all building and construction plans, drawings, specifications and other construction documents (the "Plans") prepared by or on behalf of a building permit applicant to determine whether the Plans comply with the applicable ordinances (including uniform codes incorporated by reference therein) and State statutes, local codes and regulations concerning building, electrical, fire, plumbing and mechanical requirements.
 - 1.2. Partial Plan Review Services. Upon request by The City of Lodi for partial plan review services, Engineer shall review partial element(s) of construction plans, drawings, specifications and other construction documents (the "Plans") prepared by or on behalf of a building permit applicant to determine whether those elements of the Plans comply with the applicable ordinances (including uniform codes incorporated by reference therein) and State statutes, regulations, local codes and ordinances concerning building, electrical, fire, plumbing, and mechanical. This definition of Partial Plan Review shall apply to the following services:
 - 1.2.1. Structural engineering review of the Plans.
 - 1.2.2. Architectural review of the Plans.
 - 1.2.3. Plumbing review of the Plans.
 - 1.2.4. Mechanical review of the Plans.
 - 1.2.5. Electrical review of the Plans.

- 1.3. Initial Reviews. For reviews under sections 1.1 and 1.2, Engineer shall issue to The City of Lodi a formal written opinion for each set of plans reviewed. The Engineer's formal written opinion shall either verify that the plans are in compliance with all applicable ordinances, codes, statutes and regulations, or specifically detail all corrections necessary to bring the plans into compliance with the applicable ordinances, codes, statutes and regulations. When directed by the Building Official, Engineer shall perform a recheck of the building permit applicant's initial corrections and shall verify by formal written opinion whether or not all the required corrections have been made.
- 1.4. Additional Reviews. When directed by the Building Official, the Engineer shall perform additional rechecks of any plans for which additional corrections, major revisions and/or change orders were required, and Engineer shall verify by formal written opinion whether or not all required corrections and/or revisions have been made. Compensation for subsequent rechecks beyond the first and second review shall be at an hourly rate as outlined in Section 4.4.
- 1.5. Inspections. Upon request by the City of Lodi, Engineer shall inspect all building, structures, and accessories as defined by the permitted documents or as further defined by the Building Official.
- 1.6. Miscellaneous Engineering. Upon request by The City of Lodi, Engineer shall provide miscellaneous engineering services as directed.

2. **Time for Completion.**

- 2.1. **Turnaround Times for Plan Review.** Engineer shall perform the Work, as defined in Section 1, within the following turnaround times:
 - 2.1.1. For most single-family residential projects and projects requiring normal review (e.g. tenant improvements, alteration and deferred submittals), Engineer shall perform the Work within 8 working days.
 - 2.1.2. For projects not included in section 2.1.1 and with a building valuation of less than \$5,000,000, Engineer shall perform the Work within 12 working days.
 - 2.1.3. For all projects with a building valuation exceeding \$5,000,000, or that include buildings exceeding three stories in height, Engineer

shall perform the Work within a reasonable period of time predetermined by Engineer and the City of Lodi.

3. **Collection of Fees.** All fees required to be collected from a building permit applicant in connection with Engineer's performance of the Work shall be collected by The City of Lodi unless otherwise directed by The City of Lodi.
4. **Compensation.**
 - 4.1. Lump Sum Fee. In exchange for the Work performed pursuant to section 1.1, The City of Lodi shall compensate Engineer at the rate of 75% of fees collected by The City of Lodi for that purpose.
 - 4.2. Breakdown of Lump Sum Fee. In exchange for the Work performed pursuant to section 1.2 Partial Plan Review, The City of Lodi shall compensate Engineer at the below-specified percentages of The City of Lodi's full plan review fee.

4.2.1. Structural engineering review:	37%
4.2.2. Architectural review:	30%
4.2.3. Plumbing review:	10%
4.2.4. Mechanical review:	10%
4.2.5. Electrical review:	10%
 - 4.3. Initial Fee. Engineer's fee shall include Engineer's recheck of the building permit applicant's initial plancheck corrections pursuant to Section 1.3.
 - 4.4. Additional Fees. In exchange for the Work performed pursuant to sections 1.4 Additional Reviews, 1.5 Inspections, and 1.6 Miscellaneous Engineering of this Agreement, The City of Lodi shall compensate Engineer at the applicable hourly rate set forth in the attached Attachment "A" (Hourly Rates) or at a fixed fee predetermined by Engineer and The City of Lodi. At the end of each calendar month, Engineer shall submit to The City of Lodi an itemized invoice showing the computation of fees for all items of work performed under section 1 at an hourly rate, if any. If the Work is

satisfactorily completed and the invoice accurately computed, The City of Lodi shall pay such invoice within 30 days of its receipt.

4.5. The fees paid under this section 4 shall include all of Engineer's costs and expenses related to the Work, and there shall be no billing to The City of Lodi for Engineer's costs and expenses except as otherwise agreed to in writing by The City of Lodi.

5. **Term and Termination.** This Agreement will become effective on the date stated above. This Agreement may be terminated at any time by either party upon 15 days advance written notice to the other party. In the event of such termination, Engineer is to be fairly compensated according to the provisions of Section 4 of this Agreement for all work performed to the date of termination.

6. **Engineer's Private Clients.** Engineer shall provide no services for any private client within the corporate boundaries of The City of Lodi during the term of this Agreement.

7. **Compliance with Laws.** Engineer shall perform the Work in compliance with all applicable federal, state and local laws and regulations, including the acquisition and maintenance of all permits, licenses and certificates that may be required to perform the Work.

Engineer, and all of its employees or agents who perform work for The City of Lodi under this Agreement, shall be properly certified and qualified as required by law and as reasonably necessary to perform the Work.

8. **Independent Contractor.** Engineer's relationship to The City of Lodi is that of an independent contractor. All persons hired by Engineer and performing the Work shall be Engineer's employees or agents. The City of Lodi shall not be responsible in any way for any payment or liability arising out of worker's compensation, unemployment, employee wages, taxes or benefits to or for Engineer's employees or agents.

Engineer is an independent contractor and not an employee of The City of Lodi. This Agreement between the parties is deemed non-exclusive and The City of Lodi has the right to contract with any other person and/or to employ any other persons to perform the Work contemplated herein.

9. **Protections from Liability.** When acting in accordance with the Uniform Building Code, the Building Official and his or her designees enjoy certain

protections from liability. As The City of Lodi's authorized representative, Engineer shall be deemed to be a designee of the Building Official. Additionally as such, Engineer shall be entitled specifically to sovereign immunity. This section 9 is not intended and shall not operate in any way to increase The City of Lodi's liability or to decrease The City of Lodi's immunity from liability.

10. **Indemnification.** Engineer shall indemnify, defend, protect, and hold harmless The City of Lodi, and its officers, employees and agents from and against any and all liability, losses, claims, damages, expenses, and costs (including attorney, expert witness and consultant fees, and litigation costs) because of property damage or injury to person received or suffered by reason of the negligent errors, acts or omissions of Engineer or any of its agents, officers and employees and subcontractors in the performance of, or failure to perform, the Work, except such loss or damage which was caused by the sole negligence or willful misconduct of The City of Lodi.

11. **Insurance.** Engineer, at its sole cost and expense, shall procure and maintain for the duration of this Agreement the following types and limits of insurance:

<u>Type</u>	<u>Limits</u>
General Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim
Automobile Liability	\$1,000,000 per occurrence
Worker's Compensation	statutory limits

The general liability and professional liability policy (ies) shall be endorsed to name The City of Lodi, its officers, employees and agents as additional insureds regarding liability arising out of the Work.

Insurance is to be placed with insurers acceptable to The City of Lodi. Upon request by The City of Lodi, Engineer shall provide to The City of Lodi original endorsements or certificates of insurance evidencing this insurance signed by a person authorized to bind coverage on behalf of the insurer(s).

12. **Entire Agreement.** This writing represents the sole, entire, exclusive and integrated contract between the parties concerning the Work, and supersedes all oral and/or written prior negotiations, representations or contracts. This Agreement may be amended only by a subsequent written contract approved and executed by both parties.

13. **Successors and Assignment.** This Agreement shall bind and inure to the benefit of the heirs, successors and assigns of the parties; however, Engineer shall not subcontract, assign or transfer this Agreement or any part of it without the prior written consent of The City of Lodi. Any party may change its address by notifying the other party of the change in the manner provided above.
14. **Attorney's Fees.** The parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorneys fee, which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of California, whether such remedy is pursued by filing suit or otherwise, whether such costs and expenses are incurred with or without suit or before or after judgement.
15. **Governing Law.** This Agreement shall be governed by and interpreted according to the laws of the State of California.

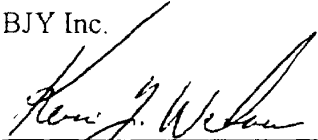
Approved:

CITY OF LODI: _____

H.D. Flynn
City Manager

Division Manager

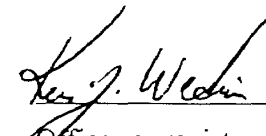
BJY Inc.


Kevin Wedman

ATTEST:

Alice Reimche
City of Lodi Clerk

BJY Inc.

 (Corporate Officer)
Officer or registrant

APPROVED AS TO FORM:

Randall Hays
City of Lodi Attorney

STATE OF _____)

:ss.

COUNTY OF _____)

On the _____ day of _____, 1999, personally appeared before me
_____, who being by me duly sworn, did say that he is the
_____ of BJY, Inc., a Texas corporation, and that said
instrument was signed in behalf of said corporation by authority of its bylaws (or by a resolution
of its Board of Directors) and said _____ acknowledged to me that said
corporation executed the same.

NOTARY PUBLIC

Residing at:

My Commission Expires:
